

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF NORTH CAROLINA  
ROCKINGHAM DIVISION**

Shelley Harris,

Plaintiff,

vs.

ELI LILLY AND COMPANY, an Indiana corporation,

Defendant.

Case No.: 1:14-cv-00682

**PLAINTIFF'S MOTION FOR LEAVE TO FILE AMENDED COMPLAINT**

Plaintiff Shelley Harris, by and through her undersigned counsel, seeks leave to file the proposed First Amended Complaint pursuant to Federal Rule of Civil Procedure 15(a), in order to narrow the scope of the Complaint, clarify her causes of action, and withdraw her causes of action for strict product liability and for violations of North Carolina's Unfair and Deceptive Trade Practices Act.

Rule 15(a)(2) allows a party to amend "with the opposing party's written consent or the court's leave." Fed. R. Civ. P. 15(a)(2). Plaintiff filed her complaint on August 13, 2014, Dkt. 1. Plaintiff's proposed First Amended Complaint is attached hereto.

Plaintiff's proposed amendments are intended to clarify and narrow their complaint as follows: (1) withdrawing Plaintiff's causes of action for design defect, strict products liability and for violations of North Carolina's Unfair and Deceptive Trade Practices Act; and (2) clarifying Plaintiff's causes of action for negligence, failure to warn, and fraud.

Rule 15(a) provides that a court "should freely give leave [to amend] when justice so requires." Fed. R. Civ. P. 15(a)(2). While granting leave to amend is "within the discretion

of the District Court,” leave to amend should be freely given “[i]n the absence of any apparent or declared reason—such as undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, futility of amendment, etc.” *Foman v. Davis*, 371 U.S. 178, 182 (1962); *see also Edwards v. City of Goldsboro*, 178 F.3d 231, 242 (4th Cir. 1999) (stating that *Forman* “is well settled” law). The “federal rules strongly favor granting leave to amend.” *Hartzman v. Wells Fargo & Co.*, No. 1:14CV808, 2015 WL 1268267, at \*2 (M.D.N.C. Mar. 19, 2015) (citing *Medigan of Ky., Inc. v. Pub. Serv. Comm'n*, 985 F.2d 164, 167–68 (4th Cir.1993)).

None of the *Foman* factors are present here. First, as undersigned counsel for Plaintiff only recently entered appearances, there has been no undue delay. Second, the proposed amendments are made in good faith and are intended to narrow and clarify the scope of the issues before the Court. Third, these are Plaintiff’s first proposed amendments. Fourth, there is no prejudice to Lilly in having the allegations against it narrowed and clarified. Discovery only recently began following the Court’s issuance of a scheduling order on February 20, 2015. Finally, the amendments are not futile.

Plaintiff therefore respectfully requests that the Court grant their motion to file the proposed First Amended Complaint.

DATED: May 15, 2015

KELLER ROHRBACK L.L.P.

By: /s/ Khesraw Karmand

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**CERTIFICATE OF SERVICE**

I hereby certify that on May 15, 2015, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, and have verified that such filing was sent electronically using the CM/ECF system, which will send notice of such filing to all known counsel of record.

/s/ Khesraw Karmand  
Khesraw Karmand